

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Servando David LOZOYA-Val,

Defendant.

Magistrate Case No. 08MJ8605

**FINDINGS OF FACT AND
ORDER OF DETENTION**

In accordance with § 3142(f) of the Bail Reform Act of 1984 (18 U.S.C. § 3141 et seq.), a detention hearing was held on July 17, 2008, to determine whether defendant Servando David LOZOYA-Val, should be held in custody pending trial on the grounds that he is a flight risk. Assistant U. S. Attorney John F. Weis appeared on behalf of the United States. Attorney Victor M. Torres was relieved as counsel for defendant and newly retained counsel Daniel M. Davis appeared on behalf of the Defendant.

Based on the evidence proffered by the United States and the Defendant, the Pretrial Services report, and the criminal complaint issued against the Defendant on July 7, 2008, by this Court, the Court concludes that the following facts establish by a preponderance of the evidence that no condition or combination of conditions will reasonably assure the appearance of the Defendant required.

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FINDINGS OF FACTA. Nature and Circumstances of the Offense Charged (18 U.S.C. §3142(G)(1))

1. The Defendant is charged in Criminal Complaint No. 08MJ8605 with the importation of 22.70 kilograms (49.94 pounds) of cocaine in violation of 21 U.S.C. § 952 and 960. Therefore, probable cause exists to believe the Defendant committed the charged offense.

2. The charged offense is an offense for which a maximum term of imprisonment of 10 years or more is prescribed in the Uniform Controlled Substances Act (21 U.S.C. § 801 et seq.). Thus, there arises a presumption that no condition or combination of conditions will reasonably assure the appearance of the Defendant as required. See 18 U.S.C. § 3142(e).

3. The offense carries with it a minimum mandatory 10-year sentence and a maximum life sentence. See 21 U.S.C. § 960(b)(1)(B). According to the United States Sentencing Guidelines, the Base Offense level is 34. See USSG § 2D1.1(3). Assuming the Defendant's criminal history score places him in Criminal History Category I, See USSG § 4A1.1, the sentencing range for the Defendant is 151-188 months in prison.

B. Weight of the Evidence Against the Defendant (18 U.S.C. § 3142(g)(2)):

1. On July 5, 2008, Defendant was the driver and registered owner of 2003 Chrysler Dodge Ram 2500 pickups. Customs and Border Protection Officer observed what appeared to be fresh paint in the wheel well and frame areas. Defendant and the vehicle were referred to the secondary inspection lot for further inspection. During secondary inspection, a Narcotic Detector Dog alerted to the vehicle. A subsequent inspection of the vehicle resulted in the discovery of 22.70 kilograms (49.94 pounds) of cocaine concealed within a specially-built dashboard compartment. Defendant stated he was going to receive \$3,000.00 smuggling fee after successfully smuggling the drug-laden pickup into the United States.

C. History and Characteristics of the Defendant (18 U.S.C. § 3142(G)(3)):


1. Defendant is a citizen of Mexico.
2. Defendant resides in Mexicali, Baja California, Mexico.
3. Defendant's wife and children reside in Culiacan, Mexico.
4. Defendant has a sister residing in Anaheim, California.

1 While in custody, upon order of a court of the United States or upon the request of an attorney
2 for the United States, the person in charge of the correctional facility shall deliver the Defendant to the
3 United States Marshal for the purpose of an appearance in connection with a court proceeding or any
4 other appearance stipulated to by defense and government counsel.

5 THIS ORDER IS ENTERED WITHOUT PREJUDICE.

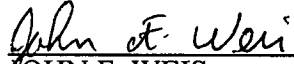
6 IT IS SO ORDERED.

7 DATED: 8-6-08

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10 
11 PETER C. LEWIS
12 UNITED STATES MAGISTRATE JUDGE

13 Prepared by:

14 KAREN P. HEWITT
15 United States Attorney

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17 JOHN F. WEIS
18 Assistant U. S. Attorney

19 cc: Daniel M. Davis
20 Counsel for Defendant.
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